

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/014211

International filing date (day/month/year)
14.12.2004

Priority date (day/month/year)
22.12.2003

International Patent Classification (IPC) or both national classification and IPC
C08G63/688, B29C49/04, B29C49/00, C08K3/32

Applicant
AMCOR LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1 (a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/014211

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	1-14
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Cf V:

Reference is made to the following documents:

- D1: DATABASE WPI Section Ch, Week 199419 Derwent Publications Ltd., London, GB; Class A23, AN 1994-156262 XP002271123 & JP 06 099475 A (KURARAY CO LTD), 12 April 1994 (1994-04-12)
- D2: US-A-4 579 936 (O'NEILL GEORGE J) 1 April 1986 (1986-04-01)
- D3: US-A-4 499 262 (FAGERBURG DAVID R ET AL) 12 February 1985 (1985-02-12)
- D4: EP-A-0 909 774 (GEN ELECTRIC) 21 April 1999 (1999-04-21)
- D5: US-A-4 209 606 (CIAPERONI ALDEMARO ET AL) 24 June 1980 (1980-06-24)
- D6: US-A-5 608 032 (YUO WU-BIN ET AL) 4 March 1997 (1997-03-04)

Article 33(2) PCT:

None of the documents discloses the same combination of features as disclosed in **claim 1**.

Thus, the subject matter of **claim 1** meets the requirements of Article 33(2) PCT.

The same consideration applies also to **claim 12**.

Article 33(3) PCT:

Document D2 is considered as representing the closest prior art. The difference between **D2** and **claim 1** is that, in **D2**, the polyester resin does not contain disodium hydrogenophosphate. Since there are no comparative examples according to **D2**, the objective technical problem is to provide further polyethylene terephthalate compositions for stretched blow molded containers.

Document D6 indicates that one can use disodium monohydrogen phosphate as catalyst for the preparation of PET. However, such PET is not especially used for making containers and such catalyst is used to decrease the yellowish color of

PET (column 3; lines 12 to 27). It has also to be pointed out that as similar catalyst sodium dihydrogenophosphate could also be used in proportion from 10 to 500 ppm (cf example 2). Thus, there are no specific indications in **D6** in order to add disodium monohydrogen phosphate to PET having sulfomonomers for making containers or parison

Thus, an inventive step should be acknowledged.

Therefore, the subject matter of **claim 1** meets the requirements of Article 33(3) PCT.

The same consideration applies also to **claim 12**.

Article 33(4) PCT:

The subject matter of **all claims** is capable of industrial applicability.

Cf VIII:

In **claim 7** the term "modifying agent" is not clear. The amount of such agent is based on mol % and thus, one can expect that such compounds are part of the polyester. However, according to the disclosure of page 11, such modifying agents could be simply additives such as colorants. Thus, it is not clear to what refers such molar amount and to what correspond such "modifying agents".